**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA**

The Beachwaver Co. 408 N. Milwaukee Ave, Suite 202 Libertyville, IL 60048 Plaintiff, v. Xtava, LLC 1013 Centre Road, Suite 403-A Wilmington, DE 19805 C&A IP Holdings, LLC 1679 S. Dupont Hwy, Suite 100 Dover, DE 11901 C+A Global 114 Tived Lane East Edison, NJ 08837 Defendants.	Civil Action No. 3:17-cv-269 **JURY TRIAL DEMAND**

COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff, The Beachwaver Co. ("Plaintiff"), by and through the undersigned counsel, files this Complaint for Patent Infringement against Xtava, LLC, C&A IP Holdings, LLC, and C+A Global, ("Defendants"), and hereby alleges as follows:

NATURE OF THE ACTION

1. This is a civil action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. 1 *et seq*., seeking damages and injunctive and other relief under 35 U.S.C. 281, *et seq*. Plaintiff's claims are based on the unauthorized and infringing manufacture,

importation, use, sale, or offer for sale by Defendants of rotating curling irons.

THE PARTIES

2. Plaintiff is a corporation organized and existing under the laws of the State of Illinois and having a principal place of business at 408 N. Milwaukee Ave., Suite 202, Libertyville, Illinois 60048.

3. Defendant Xtava, LLC ("Xtava") has a principal place of business at 37 E. 18th Street, New York, New York 10003. Xtava is a limited liability corporation organized and existing under the laws of the State of Delaware. Xtava has a registered agent for service of process at 1013 Centre Road, Suite 403-A, Wilmington, Delaware 19805. Xtava uses 1150 Canyon Trail, Topanga, California 90290 for correspondence with the United States Patent and Trademark Office.

4. Defendant C&A IP Holdings, LLC ("C&A") is a corporation organized and existing under the laws of the State of Delaware having a principal place of business at 2 Bergen Turnpike, Ridgefield Park, New Jersey 07660. C&A has a registered agent for service of process at 1679 S. Dupont Hwy, Ste. 100, Dover, Delaware 19901. C&A does business as C+A Global ("C+A") and has a principal place of business at 114 Tived Lane East, Edison, New Jersey 08837.

JURISDICTION AND VENUE

5. This is an action for patent infringement of United States Patent Nos. 9,398,796 ("the '796 patent") and 9,504,301 ("the '301 patent") arising under the provisions of the Patent Laws of the United States, 35 U.S.C. §§ 271, 281 and 283-285.

6. Plaintiff owns the '796 and '301 patents and holds rights to sue and recover damages for infringement thereof, including past infringement. This Court has subject matter jurisdiction

pursuant to 28 U.S.C. §§ 1331 and 1338(a).

7. Xtava and C&A ("Defendants") make, offer for sale, or sell infringing products which are the subject of the patent infringement cause of action set forth herein.

8. Defendants have committed acts of patent infringement, including making, offering for sale, or selling infringing products within this judicial District.

9. This Court has personal jurisdiction over Defendants. Defendants do and have done substantial business in this District by selling products in this District, including those that infringe the '796 and '301 patents. Defendants have committed and continue to commit acts of patent infringement in this District by direct sales and sales through intermediaries.

10. Venue is proper in this Court pursuant to 28 U.S.C. §§1391 and 1400(b) because Defendants are subject to personal jurisdiction in this District and have committed and continue to commit acts of patent infringement that give rise to the claims alleged within this District.

FACTUAL BACKGROUND

11. On July 26, 2016, the United States Patent and Trademark Office duly and legally issued the '796 patent titled "Hair Styling Device." A true and correct copy of the '796 patent is attached to this Complaint as Exhibit A.

12. A Certificate of Correction accompanies the '796 patent, which is attached to this Complaint as Exhibit B.

13. On November 29, 2016, the United States Patent and Trademark Office duly and legally issued the '301 patent titled "Hair Styling Device." A true and correct copy of the '301 patent is attached to this Complaint as Exhibit C.

14. All maintenance fees for the '796 and '301 patents which have come due have been paid and the patents have not expired. The '796 and '301 patents have not been found invalid by any court or agency.

15. Plaintiff currently makes, sells, and distributes rotating curling irons covered by the '796 and '301 patents. An example rotating curling iron as covered by the '796 and '301 patents is shown below.

16. Defendants make, use, sell, and/or offer for sale a rotating curling iron ("Accused Products") that each infringe one or more claims of the '796 and '301 patents under United States law.

17. Xtava manufactures, imports, and/or sells an Accused Product branded with the name "Xtava" ("Xtava Accused Product").

18. C&A manufactures, imports, and/or sells an Accused Product branded with the name "Ivation" ("Ivation Accused Product").

19. An example of the Accused Product is shown below. The Accused Products include but are not limited to the Xtava XA0040 model (shown below) and Ivation RM-64-C25 models.

20. The Xtava Accused Product is available throughout the United States, including this

District, at least through Xtava's website www.xtava.com. The Xtava Accused Product was purchased on www.amazon.com and shipped to a South Bend, Indiana address.

21. The Ivation Accused Product is available throughout the United States, including this District and was purchased at www.walmart.com and shipped to a South Bend, Indiana address.

22. The Accused Products are available at multiple retailers in this District, including Walmart. Screen captures of websites showing the Accused Products being offered for sale are shown in Exhibit D.

23. The Accused Products all carry identical ETL certification numbers and originate from a common factory: Guangdong Roman Technology Co., LTD in Guangdong, China.

24. The Accused Products include many interchangeable parts and notable common features. The disassembly of the Accused Products is detailed in Exhibit E.

25. The Accused Products are hair styling devices that have a cylinder that extends from the body and includes a clamp. (Ex. E, p.1)

26. The cylinder rotates with respect to the body and the clamp is fixed to the cylinder for rotation with the cylinder. (Ex. E, p.2)

27. The Accused Products have a heating element located within the cylinder. (Ex. E, p.3)

28. The Accused Products have a rod that is affixed to and rotates with the cylinder; the rod extends into the body and is supported by a bearing within the body. (Ex. E, p.4)

29. The bearing in the Accused Products restrain lateral movement and facilitate rotation of the rod. (Ex. E, p.5)

30. The Accused Products have a first terminal disc fixed to the cylinder and all include concentric annular electrical contacts. (Ex. E, p.6)

31. The Accused Products have a second terminal disc that is fixed relative to the body and include concentric continuous annular electrical contacts. (Ex. E, p.7)

32. The contacts on one of the terminal discs of the Accused Products are bent upwardly and contacts on the other terminal disc are flat annular rings. (Ex. E, p.8)

33. The first terminal disc of the Accused Products are held adjacent to the second terminal disc so that the contacts of the first terminal disc remain in contact with the contacts of the second terminal disc to provide an electrical circuit across the contacts to the heating element in the cylinder. (Ex. E, p.9)

34. The rotatable rod in the Accused Products extends through the centers of both terminal discs and the contacts of both terminal discs circumscribe the rotatable rod. (Ex. E, p.10)

35. The Accused Products have a motor connected to the rotatable rod to rotate the cylinder. (Ex. E, p.11)

36. The terminal discs of the Accused Products are located between the bearing and the cylinder. (Ex. E, p.12)

37. The Accused Products have a thrust bearing affixed to the rotatable rod to prevent axial movement of the rotatable rod. (Ex. E, p.13)

38. Defendants were made aware of the infringement of the ‘796 and ‘301 patents at least as early as the filing of this Complaint.

39. Defendants have not offered to buy or license the ‘796 and ‘301 patents from Plaintiff.

COUNT 1: INFRINGEMENT OF THE ‘796 PATENT

40. Paragraphs 1 through 39 of Plaintiff’s Complaint are incorporated into Count 1 of

Plaintiff's Complaint as if fully set forth herein.

41. The Accused Products meet all of the claimed limitations and therefore infringe the '796 patent.

42. Defendants, without authorization by Plaintiff, have directly infringed and continue to infringe at least one claim of the '796 patent in violation of 35 U.S.C. §271(a), literally or by doctrine of equivalents by making, using, offering for sale, and/or selling the Accused Products in the United States.

43. Defendants, unless enjoined by this Court, will knowingly and intentionally continue to engage in infringing behavior and have made, offered for sale, and/or sold the infringing Accused Products after knowing of the '796 patent.

COUNT 2: DIRECT INFRINGEMENT OF THE '301 PATENT

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44. Paragraphs 1 through 43 of Plaintiff's Complaint are incorporated into Count 1 of Plaintiff's Complaint as if fully set forth herein.

45. The '301 patent has two independent claims, Claim 1 and Claim 9, with a total of 10 claims.

46. For reference, Claim 1 of the '301 patent generally covers a hair styling device having a body; a cylinder extending from the body, the cylinder is rotatable relative to the body and includes a clamp adapted for holding hair, the clamp is fixed to the cylinder for rotation with the cylinder, a heating element is located within the cylinder; a rotatable rod is affixed to and rotates with the cylinder relative to the body, the rotatable rod extends into the body and is supported by a bearing within the body that restrains lateral movement of the rotatable rod and facilitates rotation of the rotatable rod; a first terminal disc is rotatably fixed relative to the cylinder, the first terminal

disc includes concentric annular electrical contacts; a second terminal disc is fixed relative to the body, the second terminal disc includes concentric continuous annular electrical contacts; one of the annular electrical contacts on one of the terminal discs is bent upwardly and another of the annular electrical contacts on other the terminal disc is a flat annular ring, the first terminal disc is held adjacent to the second terminal disc so that the contacts of the first terminal disc remain in contact with the contacts of the second terminal disc to provide an electrical circuit across the contacts, the rotatable rod extends through centers of both the terminal discs, and the contacts of both the terminal discs circumscribe the rotatable rod; and a motor is connected to the rotatable rod to rotate the cylinder.

47. For reference, Claim 9 of the '301 patent generally covers a hair styling device comprising: a body; a cylinder extends from and rotates relative to the body, the cylinder includes a clamp adapted for holding hair, the clamp fixed to the cylinder for rotation with the cylinder, a heating element is located within the cylinder, the cylinder is supported by a bearing within the body that restrains lateral movement of the cylinder and facilitates rotation of the cylinder; a rotatable shaft is rotatable with the cylinder relative to the body; a first terminal disc is rotatably fixed relative to the cylinder, the first terminal disc includes concentric annular electrical contacts; a second terminal disc is fixed relative to the body, the second terminal disc includes concentric continuous annular electrical contacts; one of the annular electrical contacts on one of the terminal discs is bent away from the one terminal disc and toward another of the terminal discs, one of the electrical contacts on the other terminal disc is a flat annular ring, the first terminal disc is held adjacent to the second terminal disc so that the contacts of the first terminal disc remain in contact with the contacts of the second terminal disc to provide an electrical circuit across the contacts to the cylinder, the shaft extends through the first terminal disc; and a motor is connected through the

shaft to impart rotation of the cylinder.

48. The Accused Products meet all of the claimed limitations and therefore directly infringes at least one claim of the '301 patent.

49. Defendants, without authorization by Plaintiff, have directly infringed and continue to infringe at least one claim of the '301 patent in violation of 35 U.S.C. §271(a), literally or by doctrine of equivalents by making, using, offering for sale, and/or selling the Accused Products in the United States.

50. Defendants, unless enjoined by this Court, will knowingly and intentionally continue to engage in infringing behavior and have made, offered for sale, and/or sold the infringing Accused Products after knowing of the '301 patent.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rules of Civil Procedure 38(b), Plaintiff demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court enter judgment in its favor and grant the following relief:

a) declaring Defendants have infringed the '796 and '301 patents;
b) declaring Defendants' infringement of the '796 and '301 patents has been willful;
c) an order permanently enjoining Defendants and all persons and entities acting in concert with Defendants, from manufacturing, using, selling, and offering to sell the infringing products in the United States prior to the expiration of the '796 and '301 patents;
d) declaring this case is exceptional within the meaning of 35 U.S.C. § 285;

e) an award of damages adequate to compensate it for Defendants' infringement of the '796 and '301 patents including lost profits, but in an amount no less than a reasonable royalty, and that such damages be trebled according to 35 U.S.C. § 284;

f) awarding all costs and expenses of this action, including reasonable attorneys' fees; and

g) awarding Plaintiff such further relief as the Court may deem just, necessary, and proper.

Dated: April 4, 2017

Respectfully submitted,

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